



STATE OF LOUISIANA PUBLIC DEFENDER BOARD

Bobby Jindal
Governor

Frank X. Neuner, Jr.
Chairman

Jean M. Faria
State Public Defender

2010 Legislative Session – Legislation Impacting Juvenile Clients

During the 2010 Regular Legislative Session, legislators enacted or amended 18 laws impacting juvenile defense services in Louisiana—both delinquency cases and Child in Need of Care cases. These laws went into effect on August 15, 2010 (except where indicated).

Summary of 2010 Legislation Affecting Juvenile Clients

La. Ch.C. art. 305(A)(1)(b) and (B)(1)(b) – Requires court to inform juveniles, at continued custody hearing, of lifetime sex offender registration requirements for certain offenses.

La. Ch.C. art. 320(A) – Creates a presumption of indigence for juveniles.

La. Ch.C. art. 321(E) – Amends provisions for reimbursement of the public defender's office, appointed to represent a child, by parents who are financially able to provide for an attorney.

La. Ch.C. art. 631(A) – Amends filing provisions for Child in Need of Care cases, to permit only the district attorney and the Department of Social Services (now the Department of Children & Family Services) to file petitions

La. Ch.C. art. 652(C),(D),(E),(F) and (G) – Amends discovery provisions for Child in Need of Care cases. (Effective June 22, 2010)

La. Ch.C. art. 804 – Creates “illegal possession of a firearm” as a delinquent act.

La. Ch.C. art. 809(A) – Provides children counsel at every stage of the proceeding.

La. Ch.C. art. 809(B) – Provides that appointed counsel continues to represent juvenile until retained counsel enrolls.

(Continued)

La. Ch.C. art. 841(D) – Provides notice to counsel of mental health evaluations ordered pursuant to an informal adjustment agreement. Prevents incriminating statements from being used in the examiner’s report or in future court proceedings.

La. Ch.C. art. 855 – Requires court to inform juveniles of lifetime sex offender registration requirements for certain offenses.

La. Ch.C. art. 857(C)(1) and La. C.Cr.P. art. 876(A) – Adult who is charged with an offense committed when he was a juvenile, and was subject to prosecution as an adult at the time, shall be prosecuted as an adult.

La. Ch.C. art. 857(C)(2) and La. C.Cr.P. art. 876(B) – Adult who is charged with an offense committed when he was a juvenile, and was not subject to prosecution as an adult at the time, shall be prosecuted as an adult.

La. Ch.C. art. 858(B) – Requires court to inform juveniles subject to a transfer hearing of sex offender registration and duration requirements.

La. Ch.C. art. 860(A) – Provides notice to counsel of mental health evaluations ordered for a juvenile subject to a motion to transfer.

La.Ch.C. art. 867(A) – Provides notice to counsel of mental health evaluations ordered for a juvenile against whom a petition has been filed.

La. Ch.C. art. 881.1(A) – Codifies constitutional requirements for admissible confessions.

La. Ch.C. art. 881.1(B) – Codifies *State v. Fernandez* factors for determining admissibility of confessions.

La. Ch.C. art. 884.1 – Codifies sex offender registration and notification form.

La. R.S. 15:529.1 (all subsections) – Repealed statutory language authorizing the use of juvenile adjudications to enhance adult felony penalties.

La. R.S. 15:544(D)(3)(e) – Creates additional requirement for sex offenders eligible to reduce their registration because of a “clean record.”

Text of 2010 Legislation Affecting Juvenile Clients

Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underlined** are additions

La. Ch.C. art. 305 Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children; when acquired

A.(1) When a child is fifteen years of age or older at the time of the commission of first degree murder, second degree murder, aggravated rape, or aggravated kidnapping, he is subject to the exclusive jurisdiction of the juvenile court until either:

* * *

(b) The juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that he committed one of these offenses, whichever occurs first. **During this hearing, when the child is charged with aggravated rape, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.**

* * *

B.(1) When a child is fifteen years of age or older at the time of the commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he is subject to the exclusive jurisdiction of the juvenile court until whichever of the following occurs first:

* * *

(b) The juvenile court holds a continued custody hearing and finds probable cause that the child has committed any of the offenses listed in Subparagraph (2) of this Paragraph and a bill of information charging any of the offenses listed in Subparagraph (2) of this Paragraph is filed. **During this hearing, when the child is charged with forcible rape or second degree kidnapping, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.**

* * *

La. Ch.C. art. 320 Indigency determination

A. For purposes of the appointment of counsel, children are presumed to be indigent.

~~A.~~ **B.** The determination of the indigency of any person entitled to counsel under this Code may be made by the court at any stage of the proceedings. If necessary, ~~the person~~ **he** shall

be allowed to summon witnesses to testify before the court concerning his financial ability to employ counsel.

~~B.(1)~~ C. In determining whether ~~or not~~ a person is indigent and entitled to the appointment of counsel, the court shall consider whether ~~the person~~ he is a needy person and the extent of his ability to pay.

(1) The court shall consider such factors as income, property owned, outstanding obligations, and the number and ages of dependents.

(2) Release on bail ~~alone~~ shall not alone disqualify a person either an adult or child for appointment of counsel.

~~C.~~ D. In each case, subject to the penalty of perjury, the person ~~subject to the penalty of perjury~~, shall certify in writing such material factors relating to his ability to pay as the court prescribes.

La. Ch.C. art. 321 Partial reimbursement by indigents indigent adults

A. To the extent that a person is financially able to provide for an attorney, other necessary services and facilities of representation, and court costs, the court shall order him to pay for these items. The court may order payment in installments or in any manner which it believes reasonable and compatible with the ~~defendant's~~ person's financial ability.

B. ~~Payments so made~~ Any payments shall be transmitted to and become a part of the ~~indigent~~ public defender fund of the district in which the proceeding is pending.

C. When ~~an individual is~~ a person, who was initially determined to be indigent and is was appointed counsel, ~~but~~ subsequently hires private counsel, the court shall conduct a contradictory hearing to ~~first determine if:~~

(1) Whether he was in fact indigent when counsel was previously appointed. ~~the person was in fact initially indigent and, if not, then secondly to determine the~~

(2) What charges were incurred in retaining counsel ~~which, if not disclosed, will constitute grounds for contempt of court, then lastly to determine the.~~

(3) What expenses ~~of representing the individual which~~ have been incurred by the district public defender, ~~or regional director, where applicable, or other appointed counsel.~~

D. Upon determining the expenses incurred, the court may hold the ~~individual~~ person liable to the district public defender or other appointed counsel for reimbursement of all or part of those expenses, ~~and a.~~ A judgment for the amount owed may be recorded in the mortgage records ~~in favor of the district public defender or other appointed counsel~~ and may be enforced as provided by law.

E. If the court finds that the parents are financially able, it may order them to reimburse the appointed counsel or district public defender's office for some or all of the costs of representing the child that are incurred before retained counsel has enrolled as counsel of record.

La. Ch.C. art. 631 Authority to file petition; custody

A. A child in need of care proceeding shall be commenced by petition filed by the district attorney. ~~Any other person~~ **The Department of Social Services, when** authorized by the court, may file a petition if there are reasonable grounds to believe that the child is a child in need of care.

* * *

La. Ch.C. art. 652 Discovery

* * *

C. At any stage of the proceeding, upon written motion of counsel for the child or his parent, the district attorney, or the department, and after a contradictory hearing and a showing of good cause, unless all parties agree, the court shall order the other party to permit counsel to obtain discovery not provided for in Paragraphs A and B of this Article regarding any matter, not privileged, including but not limited to attorney-client privilege or information not otherwise protected under R.S. 46:56 and 2124.1 or by restrictive order pursuant to Article 653, which is relevant to the subject matter involved in the adjudication hearing including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of a person having knowledge of any discoverable matter. It is not grounds for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

~~E. D.~~ If counsel for the child or the parent is provided discovery, the court may condition that order upon reciprocal discovery by the state.

~~D. E. (1)~~ The court shall not order the production or inspection of any part of a writing that reflects the mental impressions, conclusions, or theories of an attorney, nor any other type of discovery except that expressly authorized by this Article.

(2) The court shall not order the production or inspection of any document or information which contains identifying information regarding a victim of domestic abuse or victim of dating violence as defined in R.S. 46:2132 or 2151, including physical or e-mail address, place of employment, telephone number, safety plan, or other protective measure or resource considered, implemented, planned, or accessed by the victim. The court shall not order the production or inspection of any document or information which discloses the

location of a shelter or other facility which provides services to victims of domestic abuse or dating violence.

~~E.~~ **F.** The duties imposed by a discovery order are continuing in nature as long as the child is subject to the jurisdiction of the court, unless the order provides to the contrary.

G. The party requesting discovery shall be responsible for reasonable copy costs associated with such discovery. Fees for copying shall be charged according to the uniform fee schedule adopted by the division of administration, as provided by R.S. 39:241, unless the child or parent is indigent, in which case no charge shall be made for such copies.

La. Ch.C. art. 804 Definitions

As used in this Title:

* * *

(3) "Delinquent act" means an act committed by a child of ten years of age or older which if committed by an adult is designated an offense under the statutes or ordinances of this state, or of another state if the act **offense** occurred ~~in another state~~ **there**, or under federal law, except traffic violations. It includes **an act constituting an offense under R.S. 14:95.8 and** a direct contempt of court committed by a child.

* * *

La. Ch.C. art. 809 Right to counsel

A. At every stage of proceedings under this Title, the accused child shall be entitled to **the assistance of counsel at state expense. The court shall appoint counsel or refer the child for representation by the district public defender.**

B. **If a parent secures the services of retained counsel, the court-appointed counsel or public defender shall continue to represent the child until retained counsel has enrolled as counsel of record.**

C. No child shall be admitted in accordance with this Title to a public or private mental institution or institution for the mentally ill nor shall proceedings in accordance with Chapter 7 of this Title or Article 869 go forward unless he has been represented by retained private counsel who represents only the child's interest or by an attorney from the Mental Health Advocacy Service, unless its executive director has determined that its attorneys are unavailable. Any attorney from the Mental Health Advocacy Service so appointed shall continue to represent the child in any proceeding relating to admission, change of status, or discharge from the mental hospital or psychiatric unit. Upon modification of the disposition to placement other than a mental hospital or psychiatric unit, the Mental Health Advocacy Service's attorney shall be

relieved of representation of the child upon request of the Mental Health Advocacy Service or the child.

~~C. If the court finds that the parents of the child are financially unable to afford counsel for the child, the court shall appoint counsel, or refer the child for representation by the district public defender.~~

~~D. If the court finds that the parents of the child are financially able, it may order the parents to pay some or all of the costs of the child's representation.~~

~~E.~~**D.** If the court finds that the interests of the child and his parent or caretaker conflict, or if required in the interests of justice, the court shall appoint an attorney to represent the child or refer him for representation by the district public defender.

~~F.~~**E.** The clerk of court shall promptly send notice of appointment to any attorney appointed in accordance with this Article.

La. Ch.C. art. 841 Effect of agreement

A. An informal adjustment agreement shall not be considered an adjudication. Evidence of the existence of ~~such~~ an agreement shall not be used against the child over objection in any adjudication hearing or criminal trial. ~~Such~~ **That** evidence may be used in a disposition hearing in the juvenile court or for the purpose of a presentence investigation after a criminal conviction.

* * *

C. Any incriminating statement made by the child to the person giving counsel or advice and in the discussions or conferences incident to the informal adjustment agreement shall not be used against the ~~declarant~~ **child**, over objection, in an adjudication hearing or criminal trial. ~~Any such~~ **The incriminating** statement may be used in a disposition hearing in the court or for the purpose of a presentence investigation after a criminal conviction.

D. If any medical, mental health, sensory, or special competency evaluation is performed during the period of an informal adjustment agreement, the report shall not include any incriminating statement made by the child. The examination shall not occur until five days after the clerk of court has given notice to all parties of the examination order. Any incriminating statement made by the child to the evaluator, which would violate the child's privilege against self-incrimination, shall not be used against him in any future court proceedings, adjudication hearing, or later criminal trial.

* * *

* * *

B. If the child is capable, the court shall then advise the child of the following items in terms understandable to the child:

* * *

(7) The possible consequences of his admission that the allegations are true, including the maximum and minimal dispositions which the court ~~might~~ **may** impose pursuant to Articles 897 through 900. **In addition, if the child is fourteen years of age or older and the petition charges the child with the perpetration, attempted perpetration, or conspiracy to commit any of the following offenses, the court shall inform the child that, if he admits to allegations of the petition, or the allegations of the petition are found to be true, he may be required to register as a sex offender pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950, and the court shall inform the child regarding applicable required registrations and their duration.**

(a) Aggravated rape as defined in R.S. 14:42.

(b) Forcible rape as defined in R.S. 14:42.1.

(c) Second degree sexual battery as defined in R.S. 14:43.2.

(d) Aggravated kidnapping of a child who has not attained the age of thirteen years pursuant to R.S. 14:44 or 44.2.

(e) Second degree kidnapping of a child who has not attained the age of thirteen years as defined in R.S. 14:44.1.

(f) Aggravated incest involving circumstances defined by R.S. 14:78.1 as an aggravated offense.

(g) Aggravated crime against nature as defined in R.S. 14:89.1.

* * *

C.(1) An adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to Code of Criminal Procedure Art. 571 has not lapsed and for which he was subject to prosecution as an adult due to his age at the time the offense was committed ~~may~~ **shall** be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If convicted, he shall be punished as an adult as provided by law.

(2) An adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to Code of Criminal Procedure Art. 571 has not lapsed and for which he was not subject to prosecution as an adult due to his age at the time the offense was committed ~~may~~ **shall** be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If convicted, he shall be committed to the custody of the Department of Public Safety and Corrections to be confined in secure placement for a period of time as determined by the court not to exceed the maximum amount of confinement he could have been ordered to serve had he been adjudicated for the offense as a child at the time the offense was committed.

La. Ch.C. art 858 Motion for transfer; notice

* * *

B. Notice in writing of the time, place, and purpose of the hearing ~~must~~ **shall** be given to the child and his parents and other custodian, if any, at least ten days before the hearing. **In addition, if the petition charges the child with second degree kidnapping, aggravated rape, or forcible rape, the court shall inform the child regarding the applicable registration and duration requirements in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.**

La. Ch.C. art. 860 Medical, sensory, psychological, and psychiatric examinations

A. On its own motion or on the motion of the child or district attorney, the court may order any child subject to a motion to transfer to be examined by a physician, optometrist, audiologist, psychologist, or psychiatrist. **Unless waived by the child, the examination shall not occur until five days after the clerk of court has notified all parties of the examination order.**

B. Any examination shall be made and the findings submitted to the court within three days of the transfer hearing. ~~Such~~ **This time** period may be extended by the court for good cause.

* * *

La. Ch.C. art. 867 Medical, sensory, psychological, and psychiatric examinations

A. On its own motion or on the motion of the child or district attorney, the court may order any child ~~concerning whom a petition has been filed~~ to be examined by a physician, optometrist, or audiologist. **Unless waived by the child, the examination shall not occur until five days after the clerk of court notified all parties of the examination order.**

* * *

C. Any examination ~~as herein provided~~ shall be made and the findings submitted to the court within thirty days of the date the order is entered. ~~Such~~ **This time** period may be extended by the court for good cause.

* * *

La. Ch.C. art. 881.1 Admissibility of a child's confession in juvenile court

A. A confession made by an accused child without a knowing and voluntary waiver shall not be admissible unless the state proves beyond a reasonable doubt that it was freely and voluntarily given and was not made under the influence of fear, duress, intimidation, menaces, threats, inducements, or promises.

B. In making this determination, the court shall consider all of the following:

(1) The age of the child.

(2) The education of the child.

(3) The knowledge of the child as to both the substance of the charge, if any has been filed, and the nature of his rights to consult with an attorney and to remain silent.

(4) Whether the child is held incommunicado or allowed to consult with relatives, friends, or an attorney.

(5) Whether the child was interrogated before or after formal charges had been filed.

(6) The methods used in the interrogation.

(7) The length of the interrogation.

(8) Whether or not the child refused to voluntarily give statements on prior occasions.

(9) Whether the child has repudiated an extra-judicial statement at a later date.

La. Ch.C. art. 884.1 Informing the child of sex offender registration and notification requirements; form

A. When the child has admitted the allegations of the petition or when adjudicated delinquent for any of the following offenses, the court shall provide him with written notice of the requirements for registration as a sex offender:

(1) Aggravated rape as defined in R.S. 14:42.

(2) Forcible rape as defined in R.S. 14:42.1.

(3) Second degree sexual battery as defined in R.S. 14:43.2.

(4) Aggravated kidnapping of a child who has not attained the age of thirteen years pursuant to either R.S. 14:44 or 44.2.

(5) Second degree kidnapping of a child who has not attained the age of thirteen years as defined in R.S. 14:44.1.

(6) Aggravated incest involving circumstances defined by R.S. 14:78.1 as an aggravated offense.

(7) Aggravated crime against nature as defined in R.S. 14:89.1.

B. The court shall use this form for the notice:

STATE IN THE INTEREST OF

JUDICIAL DISTRICT COURT

DOCKET # PARISH OF

DIVISION STATE OF LOUISIANA

Notification to Sex Offender in accordance with Children's Code Article 884.1, this Court has the duty to provide (name of juvenile) with the information necessary for awareness of sex offender and child predator registration requirements.

(name of juvenile) has admitted the allegations of the petition or has been adjudicated of a violation of R.S. . Based on the provisions of Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950 and the substance of the statute violated, IT IS ORDERED that shall register for the period of from the date of his release from confinement being placed on aftercare, supervised release or probation, or from the date of his adjudication, if the disposition does not involve a term of confinement.

(1) You shall initially register with the sheriff and chief of police, if any, of the parish of the juvenile court in which you were adjudicated. Additionally, you shall update your registration, in person, every ninety days from the date of initial registration, with the sheriff and chief of police, if any, of the parish of your residence and the parish where you attend school or are employed. Within three business days of establishing residence in Louisiana or if a current resident, within three business days after adjudication if not immediately committed to confinement or taken into custody, or within three business days after release from confinement, you shall obtain and provide all of the following

information to each sheriff or police department (except in Orleans Parish where registration shall take place with the New Orleans Police Department):

(a) Name and any aliases.

(b) Physical address or addresses of residence.

(c) Name and physical address of place of employment. If you do not have a fixed place of employment, you shall provide information with as much specificity as possible regarding the places where you work, including but not limited to travel routes.

(d) Name and physical address of the school in which you are a student.

(e) Two forms of proof of residence for each residential address provided, including but not limited to a driver's license, bill for utility service, and bill for telephone service. If those forms of proof are not available, you may provide an affidavit of an adult resident living at the same address.

(f) The offense for which you were adjudicated and the date and place of the adjudication, and if known, the court in which the adjudication was obtained, the docket number of the case, the specific statute violated, and the disposition imposed. Note that this information is all contained at the beginning of this form.

(g) A current photograph, fingerprints, palm prints, and a DNA sample.

(h) Your telephone numbers, including fixed location phone, mobile phone numbers, or telephone number associated with any residence address.

(i) A description of every vehicle registered to or operated by you, including license plate number and a copy of your driver's license or identification card.

(j) Your social security number and date of birth.

(k) A description of your physical characteristics, including but not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or other identifying marks.

(l) Every e-mail address, online screen name, or other online identity you use or have used to communicate on the Internet.

(m) Temporary lodging information regarding any place where you plan to stay for seven or more days and the length of the planned stay.

(n) Travel and immigration documents, including but not limited to passports and documents establishing immigration status.

(2) If you are committed to the office of juvenile justice, you shall provide this information to that office within ten days prior to release from confinement. You shall still

appear in person at the sheriff's office within three business days of release from confinement.

(3) During the declaration of an emergency if you enter an emergency shelter, you shall, within the first twenty-four hours of admittance, notify the management of the shelter, the chief of police of the municipality, and the sheriff of the parish in which the shelter is located of your sex offender status.

(4) You have a duty to provide notice of change of address or other registration information to the sheriff of the parish of residence within three business days. If the new or additional residence is located in a different parish, then you shall register with the sheriff of the parish in which the new or additional residence is located. You shall also send written notice within three business days of re-registering in the new parish to the sheriff of the parish of former registration.

(5) If you provide recreational instruction to persons under the age of seventeen, you shall post a notice in the building or facility where such instruction is being given.

(6) Within ten days prior to release from confinement in a correctional facility, you shall provide a photograph and other relevant information noted in this Article to the office of juvenile justice for purposes of the State Sex Offender and Child Predator Registry.

(7) If you change your place of residence or establish a new or additional residence, you shall appear in person at the office of the sheriff of your parish of residence where you are currently registered within three business days of the change to register the new address. If the new address is located in a different parish, then you shall also appear in person at the office of the sheriff of your new parish of residence within the same time period. If your parish of residence is in Orleans Parish, then the registration shall take place at the New Orleans Police Department and not with the Orleans Parish Sheriff's Office.

(8) If you are absent from your current address of registration for more than thirty consecutive days or an aggregate of thirty days or more in a calendar year, and are physically present at another address during that same period of time, you shall register the new address in person as one of your addresses of residence. If the new address is in a parish different from your current address, you shall also register in person with the sheriff of the new parish within three business days of the tolling of the time periods listed. This requirement notwithstanding, you shall still notify the sheriff of one of your parishes of residence in person if you are to take up temporary lodging for seven or more days. It is only after the thirty-day limit is exceeded that the new registration shall occur. If your address of residence is in Orleans Parish, this registration update shall take place at the New Orleans Police Department and not with the Orleans Parish Sheriff's Office.

(9) You shall also appear in person at the office of the sheriff of any of your parishes of residence when there is a change in your name, place of employment, or enrollment. This appearance shall occur within three business days of the change. If your address of residence is in Orleans Parish, this registration update shall take place at the New Orleans Police Department and not with the Orleans Parish Sheriff's Office.

to his age at the time the offense was committed ~~may~~ **shall** be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If convicted, he shall be punished as an adult as provided by law.

B. An adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to Code of Criminal Procedure Article 571 has not lapsed and for which he was not subject to prosecution as an adult due to his age at the time the offense was committed ~~may~~ **shall** be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If convicted, he may be committed to the custody of the Department of Public Safety and Corrections to be confined in secure placement for a period of time as determined by the court not to exceed the maximum amount of confinement he could have been ordered to serve had he been adjudicated for the offense as a child at the time the offense was committed.

La. R.S. 529.1 Sentences for second and subsequent offenses; certificate of warden or clerk of court in the state of Louisiana as evidence

A. ~~(1)~~ Any person who, after having been convicted within this state of a felony ~~or adjudicated a delinquent under Title VIII of the Louisiana Children's Code for the commission of a felony grade violation of either the Louisiana Controlled Dangerous Substances Law involving the manufacture, distribution, or possession with intent to distribute a controlled dangerous substance or a crime of violence as listed in Paragraph (2) of this Subsection~~, or who, after having been convicted under the laws of any other state or of the United States, or any foreign government of a crime which, if committed in this state would be a felony, thereafter commits any subsequent felony within this state, upon conviction of said felony, shall be punished as follows:

~~(a)~~ **(1)** If the second felony is such that upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then the sentence to imprisonment shall be for a determinate term not less than one-half the longest term and not more than twice the longest term prescribed for a first conviction;.

(2)(a) If the second felony and the prior felony are sex offenses as defined in R.S. 15:541, or the prior felony would be a sex offense as defined in R.S. 15:541, except it occurred prior to June 18, 1992, or the conviction was obtained under the laws of any other state, the United States, or any foreign government, the person shall be sentenced to imprisonment at hard labor for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than three times the longest possible sentence prescribed for a first conviction, without benefit of probation, parole, or suspension of sentence.

(b) If the second felony and the prior felony are sex offenses as defined in R.S. 15:541, or the prior felony would be a sex offense as defined in R.S. 15:541, except it occurred prior to June 18, 1992, or the conviction was obtained under the laws of any other state, the United States, or any foreign government, and the victims of the previous offense and the instant offense were under the age of thirteen years at the time of the commission

of the offense or any part thereof, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

~~(b)~~**(3)** If the third felony is such that upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life then:

~~(i)~~**(a)** The person shall be sentenced to imprisonment for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than twice the longest possible sentence prescribed for a first conviction; or

~~(ii)~~**(b)** If the third felony and the two prior felonies are felonies defined as a crime of violence under R.S. 14:2(B), a sex offense as defined in R.S. 15:540 et seq. when the victim is under the age of eighteen at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for ten years or more, or any other crimes punishable by imprisonment for twelve years or more, or any combination of such crimes, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

~~(e)~~**(4)** If the fourth or subsequent felony is such that, upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life then:

~~(i)~~**(a)** The person shall be sentenced to imprisonment for the fourth or subsequent felony for a determinate term not less than the longest prescribed for a first conviction but in no event less than twenty years and not more than his natural life; or

~~(ii)~~**(b)** If the fourth felony and two of the prior felonies are felonies defined as a crime of violence under R.S. 14:2(B), a sex offense as defined in R.S. 15:540 et seq. when the victim is under the age of eighteen at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for ten years or more, or of any other crime punishable by imprisonment for twelve years or more, or any combination of such crimes, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

~~(2)(a) Attempted first degree murder.~~

~~(b) Attempted second degree murder.~~

~~(c) Manslaughter.~~

~~(d) Armed robbery.~~

~~(e) Foreible rape.~~

~~(f) Simple rape.~~

~~(g) Second degree kidnapping.~~

~~(h) A second or subsequent aggravated battery.~~

~~(i) A second or subsequent aggravated burglary.~~

~~(j) A second or subsequent offense of burglary of an inhabited dwelling.~~

* * *

C. The current offense shall not be counted as, respectively, a second, third, fourth, or higher offense if more than ten years have elapsed between the date of the commission of the current offense or offenses and the expiration of the maximum sentence or sentences of the previous conviction or convictions, ~~or adjudication or adjudications of delinquency~~, or between the expiration of the maximum sentence or sentences of each preceding conviction or convictions ~~or adjudication or adjudications of delinquency~~ alleged in the multiple offender bill and the date of the commission of the following offense or offenses. In computing the intervals of time as provided herein, any period of **parole, probation, or servitude incarceration** by a person in a penal institution, within or without the state, shall not be included in the computation of any of said ten-year periods between the expiration of the maximum sentence or sentences and the next succeeding offense or offenses.

D.(1)(a) If, at any time, either after conviction or sentence, it shall appear that a person convicted of a felony has previously been convicted of a felony under the laws of this state ~~or adjudicated a delinquent under Title VIII of the Louisiana Children's Code for the commission of a felony-grade violation of either the Louisiana Controlled Dangerous Substances Law involving the manufacture, distribution, or possession with intent to distribute a controlled dangerous substance or a crime of violence as listed in Paragraph (2) of Subsection A of this Section~~, or has been convicted under the laws of any other state, or of the United States, or of any foreign government or country, of a crime, which, if committed in this state would be a felony, the district attorney of the parish in which subsequent conviction was had may file an information accusing the person of a previous conviction ~~or adjudication of delinquency~~. Whereupon the court in which the subsequent conviction was had shall cause the person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegation contained in the information and of his right to be tried as to the truth thereof according to law and shall require the offender to say whether the allegations are true. If he denies the allegation of the information or refuses to answer or remains silent, his plea or the fact of his silence shall be entered on the record and he shall be given fifteen days to file particular objections to the information, as provided in Subparagraph (b) **of this paragraph**. The judge shall fix a day to inquire whether the offender has been convicted of a prior felony or felonies ~~or adjudicated a delinquent for an offense or offenses specified above~~ as set forth in the information.

(b) Except as otherwise provided in this Subsection, the district attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. The presumption of regularity of judgment shall be sufficient to meet the original burden of proof. If the person claims that any conviction ~~or adjudication of delinquency~~ alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. A person claiming that a conviction ~~or adjudication of delinquency~~ alleged in the information was obtained in violation of the Constitutions of Louisiana or of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof, by a preponderance of the evidence, on any issue of fact raised by the response.

Any challenge to a previous conviction ~~or adjudication of delinquency~~ which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(2) Following a contradictory hearing, the court shall find that the defendant is:

(a) A second offender upon proof of a prior felony conviction ~~or adjudication of delinquency as authorized in Subsection A.~~

(b) A third offender, upon proof of two prior felony convictions ~~or adjudications of delinquency as authorized in Subsection A, or any combination thereof.~~

(c) A fourth offender, upon proof of three or more prior felony convictions ~~or adjudications of delinquency as authorized in Subsection A, or any combination thereof.~~

(3) When the judge finds that he has been convicted of a prior felony or felonies ~~or adjudicated a delinquent as authorized in Subsection A,~~ or if he acknowledges or confesses in open court, after being duly cautioned as to his rights, that he has been so convicted ~~or adjudicated,~~ the court shall sentence him to the punishment prescribed in this Section, and shall vacate the previous sentence if already imposed, deducting from the new sentence the time actually served under the sentence so vacated. The court shall provide written reasons for its determination. Either party may seek review of an adverse ruling.

E. Whenever it shall become known to any superintendent or prison, probation, parole, police, or other peace officer, that any person charged with or convicted of a felony has been previously convicted ~~or adjudicated delinquent within the meaning of this Section,~~ he shall immediately report the fact to the district attorney of the parish in which the charge lies, or the conviction has been had.

* * *

La. R.S. 15:544 Duration of registration and notification period

* * *

D.

* * *

(3) For purposes of this Subsection, an offender maintains a "clean record" by:

* * *

(e) Complying with all sex offender registration and notification requirements pursuant to the provisions of this Chapter.

* * *